

MAE R. COLVIN

IBLA 79-367

Decided August 27, 1979

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting oil and gas lease offer M 42984.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings – Oil and Gas Leases: Applications: Filing

Where an offeror submits two drawing entry cards on a parcel, both cards are properly disqualified. It is irrelevant that there was actually only one card in the drawing due to BLM's rejection of the other before the drawing as defective for another reason, as it is the submission of more than one card per parcel which is prohibited under 43 CFR 3112.2-1(a)(2).

APPEARANCES: Mae R. Colvin, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Mae R. Colvin (appellant) has appealed from a decision by the Montana State Office, Bureau of Land Management (BLM), rejecting her simultaneous noncompetitive oil and gas lease offer drawing entry card, which was drawn with first priority in the drawing for parcel MT 401 in the February 1979 listing of available parcels. The drawing in question was held on March 13, 1979. Shortly before this drawing, BLM rejected and returned to appellant another, different drawing entry card for parcel MT 401 also submitted in her name. It did so because the card was not accompanied by proper payment of the required \$10 filing fee, in that the descriptions of the amount of payment on an accompanying personal check disagreed.

Thus, on the date of the drawing, appellant had two different offer cards for this parcel extant: The one that was returned to appellant on March 13, 1979, and the one that was drawn with first priority in the drawing on this same date. The record contains the original of the card which was drawn and a photocopy of the one which was returned. They are clearly different cards.

BLM apparently was unaware initially that appellant had filed two different cards on this parcel as it proceeded to recognize the card which was drawn first as a valid offer and to take steps toward issuance of the lease to appellant. However, on April 3, 1979, BLM rendered a decision pointing out that appellant had filed two different cards for this parcel, and rejecting her offer pursuant to 43 CFR 3112.2-1(a)(2).

[1] The provisions of 43 CFR 3112.2-1(a)(2) are clear:

An offeror (applicant) is permitted to file only one offer to lease (entry card) for each numbered parcel on the posted list. Submission of more than one entry card by or on behalf of the offeror for any parcel on the posted list will result in the disqualification of all the offers submitted by that applicant for that particular parcel. [Emphasis added.]

It is clear that appellant submitted more than one DEC for parcel MT 401 in the February 1979 listing of available parcels. Accordingly, BLM properly disqualified both offers, including the one which was drawn with first priority, and we affirm its decision so doing. Rupert Hickman, 36 IBLA 353 (1978); Arthur H. Davison, 23 IBLA 15 (1975); Imre Prepeliczay, 22 IBLA 13 (1975).

It makes no difference, as appellant suggests, that BLM had rejected one of these offers for another reason ^{1/} prior to the drawing, so that the card was not included in the drawing and appellant actually had only one chance to win. What is prohibited by the regulation is the submission of multiple offers, which action compels the rejection of all such offers.

Appellant's statement of reasons could be read to imply that the card which was drawn with first priority was submitted after the card for which there was no adequate accompanying filing fee in an effort to substitute this offer. However, as BLM did not reject appellants alleged "first" offer until the very date of the drawing, it is doubtful that appellant could have known that this first offer was defective and that it was therefore necessary to file a second corrected

^{1/} BLM held that this offer was defective because it was accompanied by a nonnegotiable personal check in putative payment of the required filing fee for this offer and several others, and that this fee was thus effectively not paid. Bertram P. Rudolph, 39 IBLA 167 (1979).

offer. Moreover, by that time the period for the filing of simultaneous offers had ended, and BLM could not have accepted a card filed on the date of the drawing. 43 CFR 3112.1-2. Further, even were the second offer filed timely (while not holding nor implying that doing so would necessarily cure the multiple filing), appellant would be expected to notify BLM when she filed the alleged substitute offer that the first offer should be excluded from the drawing, so as to avoid any appearance of attempting to place more than one card into the drawing. Her failure to do so is indicative that she did not intend to replace a defective first offer with an acceptable second offer. In any event, in these circumstances, rejection is required regardless of whether there was any intent to file more than one offer or to gain an advantage from multiple filing. Rupert Hickman, supra at 354.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Newton Frishberg
Chief Administrative Judge

